



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

ETMC FIRST PHYSICIANS

MFDR Tracking Number

M4-18-0070-01

MFDR Date Received

September 7, 2017

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

Carrier's Austin Representative

Box Number 54

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please find attached Medical Fee Dispute resolution Request, Health Information Claim Forms, Texas Mutual EOB, Proof of Timely Filing and Medical Records. Claim was originally sent to patient's health insurance. Did not find out it was a Worker's Compensation claim until 07/06/2017. Please process for payment."

Amount in Dispute: \$1,823.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual claim [claim number] and DONALD AREGO, MD, participants in the Texas Star Network...Texas Mutual reviewed its online Texas Star network provider directory for the requestor's name and for its tax identification number, and found no evidence PERRY WALLACE, MD, is a participant in that Network...and found no evidence LISA GRACES-AUSTIN, MD, is a participant in that Network. Further, Texas Mutual has no evidence the requestor, a non-network provider, received out of network approval to provide the services or treatment... Because this fee reimbursement dispute involves a Network requirement under the Insurance Code and not the Labor Code, Texas Mutual argues DWC MDR has no jurisdiction in this matter."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY DISPUTED SERVICES

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Ordered
February 8, 2017 through February 17, 2017	99223 x 3, 99232 x 6 and 99238	\$1,823.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305, sets out the procedures for resolving medical disputes.
2. 28 Texas Administrative Code §133.307, sets out the procedures for resolving medical fee disputes.
3. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
4. 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.

Issue

1. Did the out-of-network healthcare provider meet the requirements of Chapter §1305.006?
2. Did the in-network healthcare provider render services to an in-network injured employee?
3. What dispute remedy may the requestor seek for adjudication of the disputed services?

Findings

The requestor billed for CPT Codes 99223 x 3, 99232 x 6 and 99238 rendered on February 8, 2017 through February 17, 2017 to an injured employee enrolled in the Texas Star Network, a certified healthcare network. The insurance carrier's response indicates that the claim is in the Texas Star Network. The requestor seeks a decision from the Division's medical fee dispute resolution (MFDR) section as an out-of-network healthcare provider and as an in-network healthcare provider. The respondent indicates that Dr. Donald Arego, M.D., is a participant in the Texas Star Network, however Dr. Lisa Grace-Austin and Perry Wallace, M.D., are not participants in the Texas Star Network.

The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to resolve matters involving employees enrolled in a certified health care network, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 and limited application of Texas Labor Code statutes and rules, including 28 Texas Administrative Code §133.307.

1. The requestor seeks reimbursement for dates of service February 9, 2017 through February 17, 2017 rendered by out-of-network healthcare providers, Dr. Lisa Grace-Austin and Perry Wallace, M.D. Chapter §1305.006 outlines the insurance carrier's liability for out-of-network healthcare and states, "An insurance carrier that establishes or contracts with a network is liable for the following out-of-network health care that is provided to an injured employee:
 - (1) emergency care;
 - (2) health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and
 - (3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section [1305.103](#).

Texas Insurance Code §1305.153 (c) provides "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation.

The Division finds that the requestor submitted Insufficient documentation to support that the condition(s) outlined in Texas Insurance Code §1305.006 were met. Adjudicating the disputed service would involve enforcing a law, regulation, or other provision for adjudicating the disputed service(s), provided to an in-network injured employee. The Division finds the disputed services are not under the jurisdiction of the Division of Workers' Compensation and therefore, are not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

2. The requestor, Donald Arego, M.D., an in-network healthcare provider, billed for CPT Code 99223 rendered on February 8, 2017 to an injured employee enrolled in a certified healthcare network. The insurance carrier's response indicates that both the healthcare provider and the injured employee are participants in a certified healthcare network. The Division finds that the disputed services were rendered to an in-network injured employee. The requestor may seek resolution through the networks complaint process and or file a complaint with the Texas Department of Insurance. TDI rules at 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The Division finds that the disputed services may be filed to the TDI Complaint Resolution Process, if the health care provider or facility is dissatisfied with the outcome of the network complaint process. The complaint process outlined in Texas Insurance Code Subchapter I, §1305.401 - §1305.405 and may be the appropriate administrative remedy to address matters related to health care certified networks.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. Even though all the evidence was not discussed, it was considered. The Division finds that this dispute is not under the jurisdiction of the Division of Workers' Compensation and is therefore, not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

DECISION

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

Authorized Signature

_____	_____	<u>September 29, 2017</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division, within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form, or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).